

**DEDICATION AND DECLARATION OF PROTECTIVE RESTRICTIONS, COVENANTS,
LIMITATIONS, EASEMENTS, AND APPROVALS APPENDED TO AS PART OF THE
DEDICATION AND PLAT OF
THE CLIFFS
A SUBDIVISION IN ABOITE TOWNSHIP, ALLEN COUNTY, INDIANA**

MASTERPIECE HOMES, INC., an Indiana Corporation hereby declares that it is the Owner and Developer of real estate described in this plat (the "Real Estate") which includes The Cliffs, and lays off, plats, and subdivides the Real Estate in accordance with the information shown on the plat attached to and incorporated by reference in this document. The platted subdivision shall be known and designated as The Cliffs, a Subdivision in Aboite Township, Allen County, Indiana.

The Lots shall be subject to and impressed with the covenants, agreements, restrictions, easements, and limitations set forth in this document, and shall be considered a part of every conveyance of land in The Cliffs. The provisions contained in this document are for the mutual benefit and protection of the owners present and future of any land and all land in the Subdivision, and they shall run with and bind the land and shall inure to the benefit of and be enforceable by the owners of land included in the subdivision, their respective legal representatives, successors, grantees, and assigns.

The Lots are numbered from 1 to 67, inclusive, and all dimensions are shown in feet and decimals of a foot on the Plat. All streets and easements specifically shown or described are private streets, but there shall be a perpetual right and easement for purposes of ingress and egress granted across said streets to all lot owners, their invitees, and all public and quasi-public parties.

PREFACE

The Cliffs, is a portion of a tract of real estate which has been and will be ultimately subdivided into approximately 67 residential Lots, all to be included in and known as The Cliffs, separately designated by sequentially numbered sections and/or villa sections. Each Owner of a Lot in The Cliffs shall become a member of the Community Association, known as The Cliffs Community Association, Inc. ("Master Association"). Additionally, if an Owner's Lot is located in the villa section, said Owner will also become a member of the Community Association for the villa section, known as The Cliffs Villa Community Association A, Inc. ("Villa Association A") or other such similar name in addition to being a member of the Master Association. All Owners shall be bound by the Articles of Incorporation and Bylaws of said corporations.

It shall be the obligation of The Cliffs Community Association, Inc., to make provision for the maintenance of the common areas designated on the face of the Plat, and the common areas in all sections, including the villa section. It shall be the obligation of Villa Community Association A, Inc. to make provision for the exterior maintenance of the Lots within their respective jurisdiction.

This Preface and its statement shall be deemed a covenant of equal force and effect as all others herein set forth.

ARTICLE I

Definitions

Section 1. "Architectural Control Committee" shall mean the body designated herein to review plans and to grant or withhold certain approvals in connection with improvements and developments. The Committee shall be composed of three (3) members initially appointed by the Developer. Any vacancies from time to time shall be filled pursuant to the terms of these Restrictions or the Bylaws of The Cliffs Community Association, Inc.

Section 2. "ASSOCIATIONS" shall mean and refer to both associations (Master Association and Villa Association A), its successors, and assigns.

Section 3. "Bylaws" shall mean the Bylaws initially adopted by the ASSOCIATIONS and all amendments and additions thereto.

Section 4. "Common Area" shall mean all real property owned by the Master Association for the common use and enjoyment of the Owners in the Subdivision, as shown on the respective Plat of said Subdivision, and as may be added in accordance with Article II, Section 3 of these Restrictions. Common Area is designated as Blocks A through G on the face of the Plat.

Section 5. "Developer" shall mean Masterpiece Homes, Inc., an Indiana Corporation, its assigns, successors, or successors in interest, and any person, firm, or corporation, designated by it or its said successor or successor in interest.

Section 6. "Dwelling Unit" shall mean and refer to the structure used as a residential living unit located upon a Lot, including the garage and any appurtenances.

Section 7. "Lot" shall mean any of said Lots in The Cliffs, as platted or any tract of land as conveyed originally or by subsequent Owners, which may consist of one or more Lots or parts of one or more Lots, upon which a dwelling may be erected in accordance with the restrictions hereinafter set forth. PROVIDED, HOWEVER, no tract of land consisting of part of any one Lot or parts of more than one Lot shall be considered a "Lot" unless said tract of land has a minimum of seventy-five (75) feet width at the established building line as shown on the Plat, and an area of 10,000 square feet, including all villa Lots.

Section 8. "Master Association" shall mean and refer to The Cliffs Community Association, Inc., its successors, and assigns.

Section 9. "Owner" shall mean and refer to the record owner (including villa Lots), whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Plat, including contract sellers, excluding those having such interest merely as security for the performance of an obligation.

Section 10. "Plan Commission" shall mean the Allen County Plan Commission, or any successor agency thereto with zoning jurisdiction over the Real Estate.

Section 11. "Plat" shall mean the recorded secondary plat of The Cliffs.

Section 12. "Property" or "Properties" shall mean and refer collectively to each section of The Cliffs development as it may be changed from time to time.

Section 13. "Real Estate" shall mean the property described on the face of the Plat of the Cliffs, as recorded.

Section 14. "Restrictions" shall mean and refer to the Dedication, Protective Restrictions, Covenants, Limitations, Easements, and Approvals appended to as part of the Dedication and Plat of The Cliffs.

Section 15. "Subdivision" shall mean The Cliffs and all its various sections and villa sections, a Subdivision located in Aboite Township, Allen County, Indiana.

Section 16. "The Cliffs" shall mean and refer collectively to each section of The Cliffs development, including all villa Sections, as it may be changed from time to time.

Section 17. "Villa Association A" shall mean and refer to the community association formed for The Cliffs Villas Community Association A, Inc., its successors, and assigns.

Section 18. "Villas at The Cliffs A" shall mean and refer collectively to Lots 44-67, inclusive, of The Cliffs Subdivision as it may be changed from time to time.

ARTICLE II

Property Rights

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the ASSOCIATIONS to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area:
- (b) the right of the ASSOCIATIONS to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any Assessment against said Owner's Lot remains unpaid; and for a period not to exceed ninety (90) days for any infraction by said Owner, or the Owner's family, tenants, contract purchasers for invitees of its published rules and regulations after a hearing by the Board of Directors of the ASSOCIATIONS;
- (c) the right of the ASSOCIATIONS to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such

dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members of the ASSOCIATIONS agreeing to such dedication or transfer has been recorded.

(d) the right of the ASSOCIATIONS to charge a fine, said set amount to be determined by the Board of Directors of the ASSOCIATIONS, for any violation of these protective restrictions and covenants and/or any violation of the published rules and regulations.

Effect of Nonpayment of Fines: Remedies of the Master Association. If any Owner shall fail, refuse, or neglect to make any payment of any fine when due, the Board of Directors of the Master Association may in its discretion declare the entire balance of unpaid fine to be due and payable, with interest as aforesaid, and file a Written Notice of Lien against the Lot in the office of the Recorder of Allen County, Indiana, which Notice of Lien shall perfect the lien of the Master Association and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana law, and shall include attorney's fees, title expenses, interest, and any costs of collection. The Master Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, or may do both. In any successful action, the Master Association shall be entitled to recover all of its costs and expenses. No Owner may waive or otherwise escape liability for the fines provided for herein by non-use of the Common Area, facilities, or abandonment of the Owner's Lot.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, said Owner's right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Additions to Common Area. The Developer reserves the right so long as Class B members of the ASSOCIATIONS exist, to convey and transfer to the ASSOCIATIONS such additional real and/or personal property as the Developer within its sole discretion deems appropriate, and the ASSOCIATIONS(s) shall accept such transfer and shall hold such property as a part of the Common Area of the Subdivision.

ARTICLE III

Architectural Control

No building, improvement, construction, excavation, fence, wall, drain tile, swimming pool or spa, tennis court, basketball hoop, exterior lighting, swing set, play equipment, statues, lawn ornaments, landscaping, or other structure, intended either for ornamentation, leisure, recreation, or fitness shall be commenced, erected, altered, or maintained upon any Lot, nor shall any exterior addition to or change or alteration of any Dwelling Unit be made until two (2) sets of plot plans, and specifications showing the nature, kind, shape, height, color, materials, and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee as to (1) harmony of external design and location in relation to surrounding structures and topography, and (2) the standards and guidelines established by the Architectural Control Committee from time to time. Due to the unique situation of Lot #9 with its topographical limitations, a home inconsistent with the standard

architectural control specifications may be allowed with Architectural Control Committee approval. For instance, it may be an all cedar sided house, or some type of a Frank Lloyd Wright-type house that might utilize concrete exteriors. Again, this is only with Architectural Control Committee approval and due to the exclusive nature of the lot. No trees, shrubs or undergrowth that are existing at the time of lot purchase may be cleared from any lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee may specifically stipulate certain trees and undergrowth that cannot be cleared at anytime whatsoever, now or in the future, so as to act as a privacy or visual buffer or landscape feature. Landscaping must comply with size, type, quantity, location, and any other standards established by the Master Association. All approvals shall be requested by submission to the Architectural Control Committee of plans and specifications in duplicate, showing the following:

- (a) The Dwelling Unit, and other improvements, access drives, and other improved areas, and the locations thereof on the site;
- (b) All mail boxes and exterior ornamentation;
- (c) Plans for all floors and elevations, including projections and wing walls;
- (d) Exterior lighting plans;
- (e) Walls, fencing, and screening;
- (f) Patios, decks, pools, and porches;
- (g) Landscape plan showing size and species of plantings, including both existing and proposed plantings;
- (h) All other improvements on said Lot;
- (i) Existing and proposed land contours and grades;
- (j) All proposed materials and colors;

Neither the Developer, the Architectural Control Committee, the ASSOCIATIONS, nor any member, officer or director thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in judgment, negligence, or nonfeasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans or any drainage problems resulting therefrom. Every person and entity who submits plans to the Architectural Control Committee agrees, by submission of such plans, that he or it will not bring any action or suit against the Committee, the Master Association, Villa Association A, or the Developer to recover any damages or to require the Committee or the Developer to take or refrain from taking, any action whatsoever in regard to such plans or in regard to any building or structure erected in accordance therewith. Neither the submission of any complete sets of plans to the Developer's office for review by the Architectural Control

Committee, nor the approval thereof by that Committee, shall be deemed to guarantee or require the actual construction of the building or structure therein described, and no adjacent Lot Owner may claim any reliance upon the submission and or approval of any such plans or the buildings or structures described therein.

The original Architectural Control Committee shall consist of three (3) members: Terence L. Ternet, Janeile Ternet, and Robyn Ford. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. In the event said Board, or the Architectural Control Committee, fails to approve or disapprove such design and location within thirty (30) days, after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed satisfied.

ARTICLE IV

The Cliffs Community Association, Inc.

Section 1. Organization. There has been organized in connection with the development of The Cliffs, and its various sections, including the villa sections, an incorporated not-for-profit association known as The Cliffs Community Association, Inc. ("Master Association").

Section 2. Membership and Voting Rights. Every Owner of a Lot located in The Cliffs, (including every Owner of a villa Lot) shall be a member of the Master Association, together with all other Lot Owners in the Subdivision. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

Section 3. Classes of Membership. The Master Association will have two (2) classes of voting membership:

Class A. Class A members shall be all Owners, together with all other lot owners in the Subdivision exclusive of the Developer. Owners shall be entitled to one (1) vote for each Lot owned.

Class B. Class B member(s) shall be the Developer, and shall be entitled to six (6) votes for each Lot owned in the Subdivision. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when title to all lots in all sections of the Subdivision has been conveyed,
or
- (b) on December 31, 2012

Section 4. Membership Transfer. Membership in the Master Association will transfer from the Developer or its successor in interest to the Owner upon delivery of the Deed to Owner's Lot.

Section 5. Continuing Memberships. The Owner of any Lot shall continue to be a member of the Master Association so long as such Owner continues to be the Owner of a Lot for the purpose herein mentioned. Membership shall pass with the transfer of title to the Lot.

Section 6. Transfer of Membership Rights and Privileges in the Master Association. Each Owner, and in lieu thereof, (and with the written consent of such Owner to the Master Association) each lessee of a Lot shall be a member of the Master Association and have the right to the Owner's vote and privileges. Membership, where assigned to a lessee, will pass with the lease, except if the Owner withdraws his consent in writing to the Master Association. The Owner may withdraw his membership assignment to any lessee in his discretion by issuing a sixty (60) day notice in writing to the Master Association. No assignment of membership shall relieve an Owner of the Lot from the obligation to pay any Assessment authorized by these Restrictions.

Section 7. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, excepting Developer, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Master Association: (1) annual Assessments; (2) special Assessments; (3) club Assessment (if applicable); and (4) tax recoupment Assessment. Such Assessments shall be established and collected as hereinafter provided. The annual, special, club, and tax recoupment Assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees shall, also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 8. Purpose of Annual Assessments. The annual Assessments levied by the Master Association shall be used exclusively to promote the recreation, health, and welfare of the owners in all sections of The Cliffs, including, but not limited to, the improvement and maintenance of the Common Area, maintenance of street lighting, maintenance of the sprinkling system situated in the Common Area, storm water detention basins, outlet pipes and water level control structures, removal of snow from the streets, maintenance of streets, including curbs and public sidewalks, purchase of irrigation water for Common Areas, mailbox maintenance, taxes, accounting and professional fees, maintenance of the gates and gatehouse, garbage removal, and any additional maintenance of any and all Properties owned by the Master Association.

Section 9. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment by the Master Association shall be Four Hundred Ninety Dollars (\$490.00) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may not be increased each year more than twenty percent (20%) above the maximum annual

Assessment for the prior year, without the vote or written assent of fifty-one percent (51%) of each class of members of the Master Association.

- (b) The Board of Directors of the Master Association may fix the annual Assessment at an amount not in excess of the maximum without the vote or written assent of fifty-one percent (51%) of each class of members of the Master Association.

Section 10. Special Assessments. In addition to the annual Assessment authorized above, the Master Association may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, (1) the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; (2) any budget shortfall; or (3) emergency need of the Master Association, provided that any such Assessment shall have the vote or written assent of fifty-one percent (51%) of the members of the Master Association.

Section 11. Notice and Quorum for Any Action Authorized Under Section 9 and 10. Any action authorized under Sections 9 and 10 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51%) of the members, members who were not present in person or by proxy may give their assent in writing, providing the same is obtained by the appropriate officers of the Master Association not later than thirty (30) days from the date of such meeting.

Section 12. Uniform Rate of Assessment. Both annual and special Assessments for the Master Association must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis as the Board of Directors may determine from time to time.

Section 13. Date of Commencement of Annual Assessments: Due Date. The annual Assessment provided for herein shall commence as to all Lots (excepting Lots owned by the Developer) on the date of the original recording of these Restrictions with the Recorder of Allen County. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Master Association shall fix the amount of the annual Assessment against each Lot for each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors of the Master Association. The Master Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Master Association setting forth whether the Assessments on a specified Lot have been paid.

Section 14. Tax Recoupment Assessments. In addition to all other Assessments provided for in this Article, the Master Association may levy in any Assessment year, an Assessment ("Tax Recoupment Assessment") applicable to that year only for the purpose of defraying, in whole or in part, any cost or expense incurred by the Master Association in the form of a tax, and/or penalty, and/or interest on a tax imposed upon, assumed by, or assessed against the Master Association or its properties, and arising out of or in any way related to the acceptance of title to, the ownership of, and/or operation or maintenance of any plant or equipment (including utility lines, lift stations and other property) for the transmission, delivery or furnishing of

water, or for the collection, transmission and disposal of liquid and solid waste and sewage, and/or the ownership of any real estate or easements or other rights with respect to real estate owned and/or possessed in connection with such plant or equipment.

Section 15. Effect of Nonpayment of Assessments: Remedies of the Master Association. Any Assessment (annual, special, or tax recoupment) not paid within thirty (30) days after the due date shall bear interest from the due date at a fluctuating rate equal to the maximum rate of interest which may be charged under the laws of the State of Indiana for consumer loans, adjusted on the first day of each calendar year. If any Owner shall fail, refuse, or neglect to make any payment of any Assessment when due, the Board of Directors of the Master Association may in its discretion declare the entire balance of unpaid Assessments to be due and payable, with interest as aforesaid, and file a Written Notice of Lien against the Lot in the office of the Recorder of Allen County, Indiana, which Notice of Lien shall perfect the lien of the Master Association and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana law, and shall include attorney's fees, title expenses, interest, and any costs of collection. The Master Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, or may do both. In any successful action, the Master Association shall be entitled to recover all of its costs and expenses. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area, facilities, or abandonment of the Owner's Lot.

ARTICLE V

The Cliffs Villa Community Association A, Inc.

Section 1. Organization. There has been organized in connection with the development of The Cliffs, and its various sections, including the villa sections, an incorporated not-for-profit association known as the The Cliffs Villa Community Association A, Inc., ("Villa Association A").

Section 2. Membership and Voting Rights. Every Owner of a Lot numbered 44-67 inclusive, located in The Cliffs, shall be a member of the Master Association, together with all other Lot Owners in the Subdivision. Additionally, said Owner shall also be a member of Villa Association A, together with all other Lot Owners in Lots 44-67, inclusive. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

Section 3. Classes of Membership. Villa Association A will have two (2) classes of voting membership:

Class A. Class A members shall be all Owners in the Villas at The Cliffs A, exclusive of the Developer. Owners shall be entitled to one (1) vote for each Lot owned.

Class B. Class B member(s) shall be the Developer, and shall be entitled to six (6) votes for each Lot owned in the Villas at The Cliffs A. The Class B membership shall cease and

be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when title to all lots in all sections of the Subdivision has been conveyed, or
- (b) on December 31, 2012

Section 4. Membership Transfer. Membership in Villa Association A will transfer from the Developer or its successor in interest to the Owner upon delivery of the Deed to Owner's Lot.

Section 5. Continuing Memberships. The Owner of any Lot shall continue to be a member of Villa Association A so long as such Owner continues to be the Owner of a Lot for the purpose herein mentioned. Membership shall pass with the transfer of title to the Lot.

Section 6. Transfer of Membership Rights and Privileges in Villa Association A. Each Owner, and in lieu thereof, (and with the written consent of such Owner to Villa Association A) each lessee of a Lot shall be a member of Villa Association A and have the right to the Owner's vote and privileges. Membership, where assigned to a lessee, will pass with the lease, except if the Owner withdraws his consent in writing to Villa Association A. The Owner may withdraw his membership assignment to any lessee in his discretion by issuing a sixty (60) day notice in writing to Villa Association A. No assignment of membership shall relieve an Owner of the Lot from the obligation to pay any Assessment authorized by these Restrictions.

Section 7. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, excepting Developer, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to Villa Association A: (1) annual Assessments; (2) special Assessments; (3) club Assessment (if applicable); and (4) tax recoupment Assessment. Such Assessments shall be established and collected as hereinafter provided. The annual, special, club, and tax recoupment Assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 8. Purpose of Annual Assessments. The annual Assessments levied by Villa Association A shall be used exclusively to pay for the exterior maintenance of all Dwelling Units on Lots 44-67, inclusive. For purposes hereof, these services shall include:

- (a) The maintenance of all landscaping, vegetation, grass, plants, trees under 3" in diameter (and excluding any trees existing on Lot the Owner wishes to retain), and the like located upon each Lot, provided, however, that if any of the foregoing landscaping requires replacement, it shall be the responsibility of, and at the expense of, the Owner of the applicable Unit to make such replacement;

- (b) The repainting in the original color only of the doors and exterior wood trim of the Dwelling Unit;
- (c) The maintenance, repair, and replacement as necessary of the in-ground sprinkler system installed in each Dwelling Unit;
- (d) Snow removal from drives and walks
- (e) Purchase of irrigation water, or well electricity and maintenance

If a Dwelling Unit is situated on two (2) or more contiguous Lots, the Owner shall be charged one annual Assessment as well as an additional Assessment for each additional lot, in order to pay for the additional exterior maintenance required to maintain all said Lots. In the event there is a fenced-in area upon a Lot, adequate access to this area shall be provided. If the access is locked or otherwise made inaccessible, then Villa Association A shall not be responsible for providing any maintenance within this area, and the Owner thereof shall have such responsibility and shall not be entitled to claim any abatement of any portion of the Annual Assessment by Villa Association A due to such situation. If the installation of fencing or additional landscaping by an Owner increases the cost to Villa Association A of performing this exterior maintenance, the Board of Directors may cause such Owner to pay such increases as a Special Assessment.

Section 9. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment by Villa Association A shall be Two Thousand Eight Hundred Forty Five (\$2,845.00) per Lot, comprised of the following:

- \$1,085.00 – grounds mowing and trimming services (31 @ \$35.00);
- \$ 500.00 – mulching, pre-emergence, and weed control in shrub beds;
- \$ 240.00 – snow removal from drives and walks;
- \$ 200.00 – edging shrub beds and trees;
- \$ 200.00 – exterior painting
- \$ 200.00 – pruning trees and shrubs (2 per year @ \$100.00)
- \$ 167.00 – fertilizing (5 @ \$34.00);

- \$ 125.00 – purchasing irrigation water;
- \$ 100.00 – irrigation maintenance;
- \$ 25.00 – miscellaneous expenses;

This cost breakdown is provided solely for the purpose of determining the initial annual Assessment to Lot Owners and is subject to change from time to time both to the amount and its relation to the total annual maximum Assessment.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may not be increased each year more than twenty percent (20%) above the maximum annual

Assessment for the prior year, without the vote or written assent of fifty-one percent (51%) of each class of members of Villa Association A.

- (b) The Board of Directors of Villa Association A may not fix the annual Assessment at an amount in excess of the maximum without the vote or written assent of fifty-one percent (51%) of each class of members of Villa Association A.

Section 10. Special Assessments. In addition to the annual Assessment authorized above, Villa Association A may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, (1) the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; (2) any budget shortfall; or (3) emergency need of Villa Association A, provided that any such Assessment shall have the vote or written assent of fifty-one percent (51%) of the members of Villa Association A.

Section 11. Notice and Quorum for Any Action Authorized Under Section 9 and 10. Any action authorized under Sections 9 and 10 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51%) of the members, members who were not present in person or by proxy may give their assent in writing, providing the same is obtained by the appropriate officers of Villa Association A not later than thirty (30) days from the date of such meeting.

Section 12. Uniform Rate of Assessment. Both annual and special Assessments for Villa Association A must be fixed at a uniform rate for all Lots, except as provided in Section 8 and where the Board of Directors determines that expenses for exterior maintenance as provided in Section 9 are higher for specific Lots based on actual detailed expenses or estimates by service providers. Paint maintenance may be based on the actual builder's cost and time-adjusted for inflation in order to allocate maintenance expenses properly with adjustments for any remodeling completed. All other charges shall be based upon a detailed, itemized quote from no less than two (2) maintenance contractors. This allows for variations in Dwelling Unit size, exterior trim amount, landscaping amount, or other exterior maintenance variations between the Lots. Assessments may be collected on a monthly, quarterly, or yearly basis, or as the Board of Directors may determine from time to time.

Section 13. Date of Commencement of Annual Assessments: Due Date. The annual Assessment provided for herein shall commence as to all Lots (excepting Lots owned by the Developer) on the date of the original recording of these Restrictions with the Recorder of Allen County. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of Villa Association A shall fix the amount of the annual Assessment against each Lot for each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors of Villa Association A. Villa Association A shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of Villa Association A setting forth whether the Assessments on a specified Lot have been paid.

Section 14. Tax Recoupment Assessments. In addition to all other Assessments provided for in this Article, Villa Association A may levy in any Assessment year, an Assessment ("Tax Recoupment Assessment") applicable to that year only for the purpose of defraying, in whole or in part, any cost or expense incurred by Villa Association A in the form of a tax, and/or penalty, and/or interest on a tax imposed upon, assumed by, or assessed against Villa Association A or its properties, and arising out of or in any way related to the acceptance of title to, the ownership of, and/or operation or maintenance of any plant or equipment (including utility lines, lift stations and other property) for the transmission, delivery or furnishing of water, or for the collection, transmission and disposal of liquid and solid waste and sewage, and/or the ownership of any real estate or easements or other rights with respect to real estate owned and/or possessed in connection with such plant or equipment.

Section 15. Effect of Nonpayment of Assessments: Remedies of Villa Association A. Any Assessment (annual, special, or tax recoupment) not paid within thirty (30) days after the due date shall bear interest from the due date at a fluctuating rate equal to the maximum rate of interest which may be charged under the laws of the State of Indiana for consumer loans, adjusted on the first day of each calendar year. If any Owner shall fail, refuse, or neglect to make any payment of any Assessment when due, the Board of Directors of Villa Association A may in its discretion declare the entire balance of unpaid Assessments to be due and payable, with interest as aforesaid, and file a Written Notice of Lien against the Lot in the office of the Recorder of Allen County, Indiana, which Notice of Lien shall perfect the lien of Villa Association A and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana law, and shall include attorney's fees, title expenses, interest, and any costs of collection. Villa Association A may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, or may do both. In any successful action, Villa Association A shall be entitled to recover all of its costs and expenses. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area, facilities, or abandonment of the Owner's Lot.

Section 16. Owner's Responsibility. Each Owner is responsible for the repair, maintenance, and/or replacement of all portions of the Dwelling Unit, landscaping, and other improvements constructed on the Lot, excepting for exterior maintenance provided by Villa Association A as stipulated in Article V, Section 8. Accordingly, each Owner shall maintain, at the Owner's expense, the exterior and interior of the Dwelling Unit, including, but not limited to, the roof, all doors, windows, glass, screens, electric panels, electric wiring, electric outlets and fixtures, drains, plumbing and plumbing fixtures, HVAC equipment, and all structural and mechanical elements of the Dwelling Unit. Owners are strictly prohibited from performing any maintenance duties of Villa Association A without prior written consent of the Board of Directors and the Architectural Control Committee as outlined in Article III.

ARTICLE VI

General Provisions

Section 1. Residential Purposes. No Lot shall be used except for residential purposes. No dwelling shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single-family dwelling unit not to exceed two and one-half (2 ½) stories in

height. Each dwelling shall include an attached two-car garage and basements may be constructed as a part of the dwelling.

Section 2. Home Occupations. No Lot shall be used for any purpose other than as a single-family residence, except that a home occupation, defined as follows, may be permitted: any use conducted entirely within the Dwelling Unit and participated in solely by a member of the immediate family residing in said Dwelling Unit, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof and in connection with which there is: (a) no sign or display that indicates from the exterior that the Dwelling Unit is being utilized in whole or in part for any purpose other than that of a Dwelling Unit; (b) no commodity is sold upon the Lot; (c) no person is employed in such home occupation other than a member of the immediate family residing in the Dwelling Unit; and (d) no mechanical or electrical equipment is used; provided in no event shall a small barber shop, styling salon, beauty parlor, tea room, licensed child care center or other licensed or regulated baby-sitting service, animal hospital, or any form of animal care or treatment such as dog trimming be construed as a home occupation.

Section 3. Building Sizes. No Dwelling Unit shall be built on any Lot having the living area of the main structure, exclusive of one-story open porches, breezeways, basements, or garages of less square footage than indicated below:

<u>LOT NUMBERS</u>	<u>ONE STORY</u>	<u>TWO STORY</u>
1 – 5	2,000	2,670
6 – 20	2,300	2,900
21 – 37	2,000	2,500
38 – 43	2,300	2,900
44 – 54	1,800	2,300
55 – 67	2,000	2,700

Section 4. Garages. All Dwelling Units must have a two-car attached garage of at least 440 square feet with the exception of Lot #9. All garages must be designed as either rear or side load so as the overhead garage door is not visible from the street. Further, said garage must have one or more overhead doors with an aggregate width not less than sixteen (16) feet at its narrowest point. Due to the exclusive nature and unusual lot configuration of Lot #9, a detached garage may be allowed with Architectural Control Committee approval.

Section 5. Building Setback. No Dwelling Unit or any improvements or structures shall be located on any Lot nearer to the front Lot line or nearer to the side street line or the rear property line than the minimum building setback lines shown on the recorded plat. In any event, no Dwelling Unit shall be located nearer than a distance of five (5) feet to a side Lot line for villa Lots (44 – 67) and seven (7) feet to a side Lot line for all other Lots.

For all lots, a Dwelling Unit shall be constructed no nearer than a distance of twenty-five (25) feet to a rear property line if there is no rear setback shown on the recorded Plat, except lots 1-8, 39-43, 47-53, 55-57 and 62-66 will be allowed to have a smaller rear setback of no less than fifteen feet (15') if approved by the Architectural Control Committee.

Section 6. Minimum Lot Size. No Dwelling Unit shall be erected or placed on any Lot having a width less than seventy-five (75) feet at the minimum building setback line, nor shall any Dwelling Unit be erected or placed on any Lot having an area of less than 10,000 square feet.

Section 7. Utility and Drainage Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat. No Owner of any Lot shall erect or grant to any person, firm or corporation, the right, license or privilege to erect or use or permit the use of overhead wires, poles, or overhead facilities of any kind for electrical, telephone, or television service (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables. All easements for public and municipal utilities and sewers as dedicated on the face of the Plat shall be kept free of all permanent structures and any structure, shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are intended to benefit, to install, repair, maintain or replace their utility or sewage facilities. The removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them in damages or to restore the obstruction to its original form. Electrical service entrance facilities installed for any house or other structure connecting the same to the electrical distribution system of any electric public utility shall be provided by the Owners of all Lots and shall carry not less than three (3) wires and have a capacity of not less than 200 amperes.

Section 8. Surface Drainage. Surface Drainage Easements and Common Areas used for drainage purposes as shown on the Plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easement shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 9. Maintenance of Lots and Dwelling Units. No Lot or Dwelling Unit shall be permitted to become overgrown, unsightly, or to fall into disrepair.

- (a) Maintenance: Dwelling Units shall at all times be kept in good condition and repair, in like-new condition (normal wear and tear excepted) and adequately painted or otherwise finished in accordance with specifications established by the Master Association. Exterior trim, doors, windows, lintels, and any other exterior materials on the Dwelling Unit shall not have faded, peeling, cracking, or blistering paint, stain, or any other type of finish. Any rust on the Dwelling Unit's exterior must be promptly and properly repaired.

- (b) Landscaping: All landscaping, including, but not limited to, shrubs, flowers, trees, and grass, must be properly fertilized and maintained. All shrubs, trees, grass, and plantings of every kind shall be kept well maintained, properly cultivated, and free of trash, weeds, and any other unsightly material. Lawns must be mowed at least once per week from April 1 through October 31 ("Growing Season"), or as the Master Association stipulates. Lawns shall be fertilized a minimum of twice per year and weed killer shall be applied a minimum of once per year during said Growing Season. As part of the aforementioned regimen, public walks, private driveways, patios, shrub beds, and trees on Owner's Lot must be edge trimmed at least once per month during said Growing Season. Shrub beds must be mulched annually or have sufficient ground cover planted and growing so as to eliminate the need for mulch. Throughout the year, all shrubs, trees, grass, and plantings of every kind must be watered as necessary in order to maintain the proper color, shape, and size of said landscaping. Grass shall be adequately watered so as not to appear brown at any time during the time period May 1 through September 30. Trees on Owner's lot must be properly pruned so as to maintain the health of the tree, eliminate dead wood, and stimulate proper growth. If a lawn/landscaping care service is used, the Master Association must approve the firm. Yard work can only be performed on days and times stipulated by the Master Association. Landscaping which complies with the minimum standards set forth by the Master Association shall be installed no later than ninety (90) days following occupancy or completion of the Dwelling Unit, whichever occurs first. Homes finished near the end or after the Growing Season, between October 1 and April 30, have until June 30 to complete the installation of landscaping. All landscaping plans (including size and type of plantings) must be approved by the Architectural Control Committee, as stipulated in Article III, including any additions to existing landscaping the Owner may wish to perform.
- (c) Irrigation: All Lots in the Subdivision must have, at a minimum, an in-ground automatic sprinkler system designed to provide irrigation water to the front lawn (including shrub beds) and all areas common to or visible from the roadway. The irrigation design must be approved by the Architectural Control Committee. Villa Lots, specifically Lots 44 – 67, inclusive, must have a sprinkler system designed to supply irrigation water to the entire lawn (front and back).

Section 10. Effect of Improper Maintenance: Remedies of Master Association. Each Owner, for himself and his successors and assigns, hereby grants to the Master Association, jointly and severally, the right to make any necessary alteration, repairs, or maintenance approved by the Architectural Control Committee to carry out the intent of this provision and they further agree to reimburse the Master Association for any expenses actually incurred in carrying out the foregoing. The Master Association may assess and collect such reimbursement in the same

manner as it assesses and collects yearly Assessments pursuant to Article IV, above, and such amounts shall become a lien upon the Lot and be subject to the same collection rights and remedies granted to the Master Association in Article IV.

Section 11. Nuisances. No noxious or offensive activity (in the sole opinion of the Board of Directors of the Master Association) shall be carried out upon any Lot or Common Area within the Subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Subdivision. Without limiting any of the foregoing, no exterior lights, the principal beam of which shines upon portions of a Lot other than the Lot upon which they are located, or which otherwise cause unreasonable interference with the use and enjoyment of a Lot by the occupants thereof, and no speakers, horns, whistles, bells, or other sound devices shall be located, used, or placed on a Lot which are audible from the street or any other Lot, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof.

Section 12. Temporary Structures and Storage. No structure of a temporary character, trailer, truck, commercial vehicle, recreational vehicle (RV), camper shell, all terrain vehicle (ATV), camper or camper trailer, detached basement, tent, shack, detached garage, barn or other outbuilding, shall be used or located on any Lot, or adjacent to any Lot, public street or right-of-way with the Subdivision at any time, or used as a residence either temporarily or permanently.

Section 13. Signs. No sign of any kind shall be displayed to the public view on any Lot except one (1) sign of not more than five (5) square feet, advertising such Lot for sale by the Builder or Developer during the construction and sales period. No sign of any nature is allowed after the completion and initial sale of the Dwelling Unit. If the Owner wishes to sell the Dwelling Unit and Lot at a later date, no Realtor signs advertising said property are allowed, with the exception of an attractive, well-maintained "Open House" sign, not more than five (5) square feet in size. This sign may be posted only one day per week during normal open house hours, herein defined as 1 P.M to 4 P.M., and must have prior approval from the Architectural Control Committee, as set forth in Article III of these Restrictions.

Section 14. Radio and Television Antennae. No radio or television antennae shall be attached to the exterior of any Dwelling Unit. No free-standing radio or television antennae shall be permitted on any Lot. No television receiving dish or any other type of dish that exceeds two (2) feet in diameter shall be permitted on any Lot or on any Dwelling Unit. No solar panels attached or detached shall be permitted. Any dish complying with aforementioned dimensions must not be visible from the street or neighboring Dwelling Unit and must be discreetly installed in the rear of the Dwelling Unit. If necessary, landscaping and/or other means of hiding the dish from view may be required. Any application must receive approval from the Architectural Control Committee prior to installation, per the stipulations and guidelines set forth in Article III of these Restrictions.

Section 15. Drilling, Refining, Quarrying, and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.

Section 16. Animals. Pets and animals shall be permitted as provided in this section:

- (a) Animal and pets shall be restricted to cats, dogs, fish, domestic birds, hamsters, gerbils, turtles, guinea pigs, and rabbits. No other animals shall be allowed or suffered in the Subdivision. All pets must be housed inside pet owner's home.
- (b) All dogs and cats must be inoculated against rabies by a duly qualified and licensed veterinarian and shall also be inoculated in like manner in such cases of emergency whenever ordered by the Board of Health of the State of Indiana.
- (c) When outside of the Dwelling Unit, all dogs and cats must be accompanied by an attendant who shall have such dog/cat firmly held by collar and leash, which leash shall not exceed eight (8) feet in length. No cats or dogs shall be permitted to run at large outside the Dwelling Unit. This shall not prohibit a cat or dog from being maintained without a leash or other restraint within any enclosed privacy area of the Dwelling Unit in which the dog or cat resides and/or is maintained.
- (d) The owner/custodian of the animal or pet shall remove his or her animal or pet from the Subdivision when such animal or pet emits excessive noise such that same may be heard outside the Dwelling Unit.
- (e) The pet/animal owner and the Unit Owner of the Unit involved shall be strictly liable for damage caused to the Common Area by the pet/animal and shall remove all animal waste from common areas.
- (f) Any pet/animal owner's right to have a pet/animal reside in or visit the Subdivision shall have such right revoked if the pet/animal shall create a nuisance or shall become a nuisance as may be determined by the Board of Directors of the Master Association.
- (g) With the exception of bird feeders for small birds, no feeding of any wildlife, especially geese, is allowed.

Section 17. Building Materials. All Dwelling Units and other permitted structures shall be constructed in a substantial and good workmanlike manner and of new materials. The exterior of each residence shall be constructed entirely of masonry materials (brick or stone), except two (2) coat pre-stained cedar siding or cement board siding may be used on dormers or over roof areas where brick cannot be structurally supported, provided said material has been approved by the Architectural Control Committee per the guidelines set forth in Article III of these Restrictions. All exterior trim must be wood, cement board, or high-density foam except horizontal soffit and fascia may be aluminum. Exterior finish of all windows must be aluminum or vinyl. No roll siding, asbestos siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any Dwelling Unit or other

permitted structure on any Lots of said Subdivision. No roll roofing of any description or character shall be used on the roof of any Dwelling Unit or other permitted structure on any of said Lots. Moderate use of cedar, cedar shakes or other natural finish & trim materials will be allowed when it is part of creating the correct architectural detailing on the home, but only with the pre-approval of the Architectural Control Committee. The Architectural Control Committee will be the sole determinant of whether this is allowed or not, and it is expressly not allowed if their approval has not been granted. This includes details such as wood siding or shakes on dormers or gables where the brick cannot easily be placed and unique wood shakes or trim around specialty windows or features. The home must still be predominantly masonry and this exception is only allowed where it is an appropriate architectural, window or door detail. All exterior materials and colors must receive approval from the Architectural Control Committee as set forth in Article III of these Restrictions. Due to the exclusive nature and unusual lot configuration of Lot #9, at the Architectural Control Committee's discretion they may approve a plan that would utilize alternate building materials other than listed here in Section 17. This is only with the Architectural Control Committee's approval.

Section 18. Driveways. All driveways from the street to the garage shall be poured concrete or masonry and not less than twelve (12) feet in width.

Section 19. Individual Water and Sewage Systems. No individual water supply system or individual sewage disposal system shall be installed, maintained, or used in any Lots in this Subdivision, with the exception of a water well dedicated to an automatic sprinkler system, or as required for the operation of a geothermal heating and cooling system described in detail in following Section 20. All other water and sewage applications are prohibited.

Section 20. Geothermal Systems.

- (a) An Owner whose Lot is immediately adjacent to Common Area containing a retention or detention pond shall have the right to install and maintain the following described types of geothermal heating and cooling systems ("Systems") to service the Dwelling Unit located on the Lot, and the right to use the Master Association's property described below:
1. A System with a closed loop heat exchanger designed to use retention or detention ponds located in Common Areas adjacent to such Lot.
 2. A System which uses and discharges well water from the System into retention or detention ponds located in Common Areas adjacent to such Lot.
 3. A system with a closed loop heat exchanger and buried on the Owner's Lot.

- (b) Any Systems so installed must:
1. Satisfy regulations of the Indiana Department of Natural Resources, and all applicable federal, state, and local laws, ordinances, and regulations.
 2. Satisfy reasonable requirements of the Allen County Surveyor or other applicable governmental agency regarding surface water drainage and erosion control; and obtain written approval from the Master Association.
 3. Be installed according to approved guidelines and by technicians certified by the International Ground Source Heat Pump Association (IGSHPA).
 4. Be approved by the Architectural Control Committee.
- (c) Any Owner using Common Area owned by the ASSOCIATIONS for the purpose described in Section 20 agrees to be responsible for and shall indemnify and hold the ASSOCIATIONS harmless from and against all claims, losses, damages, and judgments (including reasonable attorney's fees and litigation expenses) caused by, or resulting from, the Owner's use of ASSOCIATIONS Property in connection with the Systems.

Section 21. Use of Public Easements. In addition to the utility easements herein designated, easements in the streets, as shown on the Plat, are hereby reserved and granted to the Developer, the ASSOCIATIONS, and any public or quasi-public utility company engaged in supplying one or more of the utility services contemplated in Sections 7 and 8, or this Section 21 of Article V, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain, and remove all and every type of gas main, water main, and sewer main (sanitary and/or storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintenance and repair of said streets.

Section 22. Sanitary Sewer Restrictions. No rain and storm water runoff or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from the Storm Water and Surface Water Runoff Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned Storm Water and Surface Water Runoff Sewer System.

Section 23. Improvements. Before any Dwelling Unit on any Lot in this Subdivision shall be used and occupied as a dwelling or otherwise, the Developer or any subsequent Owner of such Lot shall install improvements serving such Lot as provided in the plans and specifications for such improvements filed with the appropriate governmental authorities, together with any amendments or additions thereto which said governmental authorities may authorize or require. This covenant shall run with the land and be enforceable by any governmental

authority having jurisdiction over the Subdivision, by the ASSOCIATIONS, or by any aggrieved Lot Owner in this Subdivision.

Section 24. Permits and Certificates. Before any Dwelling Unit located on any Lot may be used or occupied, such user or occupier shall first obtain from the Allen County Zoning Administrator an Improvement Location Permit and a Certificate of Occupancy as required by the Allen County Zoning Ordinance.

Section 25. Pools and Hot Tubs. No above ground pool, regardless of size, shall be placed or maintained on any Lot. No swimming pool, hot tub, or spa may be placed or maintained on any Lot unless it meets requirements of Allen County Zoning Ordinance and without the prior written approval of the Architectural Control Committee in accordance with Article III. Pools and spas must meet the requirements of the Allen County Zoning Ordinance as to required fencing.

Section 26. Tennis, Basketball, and Other Recreational or Leisure Facilities/Courts. No tennis court, basketball court, or any other leisure or recreation facility shall be placed or maintained on any Lot without the prior written approval of the Architectural Control Committee in accordance with Article III.

Section 27. Swing Sets and Play Equipment. Neither swing sets nor play equipment will be permitted on any Lot without prior written approval from the Architectural Control Committee in accordance with Article III. Only high-quality, durable, and attractive units as defined by the Master Association will be considered for approval. Absolutely no units constructed primarily of metal will be allowed. Units must be maintain in like-new condition and cannot be placed until location has been approved The Architectural Control Committee. Location chosen must minimize any detrimental effect to a neighbor's view of pond, ravines, wooded or landscaped areas. Units must use landscaping such as pine trees or some other buffering material approved by The Architectural Control Committee to minimize visibility of swing sets and play equipment from either a neighbor's home or from a roadway. They must also be placed so as to minimize the disturbance to a neighbor by playing children.

Section 28. Fencing. All proposed fencing must be submitted to and approved by the Architectural Control Committee in accordance with Article III herein and such proposed fencing must be in compliance with all Allen County Zoning Ordinances. The fence shall be constructed of durable and attractive materials as defined by the Master Association. No fences are allowed in the front yard except for special decorative purposes. Absolutely no chain link or wire fences will be allowed.

Section 29. Storage Areas. Garbage and refuse shall be placed in containers, which shall be concealed and contained within the Dwelling Unit. Firewood must be placed adjacent to the Dwelling Unit behind a visual barrier screening this area so that it is not visible from neighboring streets or homes. Both the visual barrier and the area to be used must receive approval from the Architectural Control Committee.

Section 30. Mailboxes & Newspaperboxes. The Developer will determine the location, type, and installation of mailboxes. Newspaper boxes are not allowed, unless Developer decides to incorporate them into group mailboxes. Individual mail boxes (if allowed by the U.S. Post

Office) must be of specific design and materials specified by the Developer and installed at the Owner's expense. Group mailboxes will be supplied by the Developer and maintained by the Master Association.

Section 31. Time for Building Completion and Restoration. Every Dwelling Unit on any Lot shall be completed within twelve (12) months after the beginning of such construction. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

Section 32. Single Owner Contiguous Lots. Whenever two (2) or more contiguous Lots shall be owned by the same person, and such Owner shall desire to use two (2) or more of said Lots as a site for a single Dwelling Unit, said Owner shall apply in writing to the Architectural Control Committee or Board of Directors of the Master Association for permission to so use said Lots. If permission for such use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one single Dwelling Unit. Notwithstanding the foregoing, each of the Lots constituting the site for such single Dwelling Unit shall remain as individual Lots for purposes of all Assessments permitted by the terms of these Restrictions. As such, the Owner will be assessed for each Lot used as a site for a single Dwelling Unit.

Section 33. Enforceability. The ASSOCIATIONS, any Owner, and the Developer shall each have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of these Restrictions. Failure by the ASSOCIATIONS or the Developer to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, and shall not operate to deprive an Owner from enforcing said covenant or restriction.

Section 34. Right of Entry. The Developer, the Architectural Control Committee, and the ASSOCIATIONS, acting through their respective representatives, shall have the right, during reasonable hours, to enter upon and inspect the Lot and Dwelling Unit, whether prior to, during, or after the completion of, any construction, for purpose of determining whether or not the provisions of these restrictions are being complied with and exercising all rights and powers conferred upon the Developer, the Architectural Control Committee, and the ASSOCIATIONS with respect to the enforcement or correction or remedy of any failure of the Owner to observe these restrictions, and the Developer, the Architectural Control Committee, and the ASSOCIATIONS and such representatives shall not be deemed to have committed a trespass as a result thereof. Notwithstanding the foregoing, an occupied Dwelling Unit may not be entered hereunder unless written notice of such proposed entry shall have been given to the Owner at least five (5) days prior to such entry.

Section 35. Partial Invalidation. Invalidation of any one of these Restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 36. Covenants, Restrictions, and Extensions. The covenants and restrictions herein contained shall run with the land, and be effective for a term of twenty (20) years from the date these Restrictions are recorded, after which time they shall automatically be extended for successive periods of ten (10) years. These Restrictions may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, subject to Plan Commission approval, and provided further, the Developer, its successors or assigns shall, with the approval of the Allen County Plan Commission, have the exclusive right for a period of four (4) years from the date of recording of these Restrictions to amend any of the Covenants and Restrictions.

Section 37. Subdivision of Lots. No Lot or combination of Lots may be further subdivided unless seventy-five percent (75%) of the Lot Owners have approved by signing an instrument of approval and until said approval has been obtained from the Allen County Plan Commission.

Section 38. Exterior Building Surfaces. All exterior building surfaces, materials, and colors shall be harmonious and compatible with colors of the natural surroundings and other Dwelling Units. The Architectural Control Committee shall have the right to approve or disapprove said building surfaces, materials, and colors at the time of construction and any time thereafter, including, but not limited to, house trim, gutters, brick and/or stone, siding, shutters, doors, windows and window trim, lawns, shrubbery, and all other forms of landscaping and exterior trim.

Section 39. Dwelling Unit Exterior. All windows, porches, balconies, and exteriors of all Dwelling Units shall at all times be maintained in a neat and orderly manner. No clotheslines or other outside drying or airing facilities shall be permitted.

Section 40. Yard Lights. A dusk-to-dawn light (or gas light) of type and location approved by the Architectural Control Committee shall be installed by the builder or Lot Owner on each Lot in front of the front building line and shall at all times be maintained and operational.

Section 41. Fires. No outdoor fires for the purpose of burning leaves, grass, or other forms of trash shall be permitted to burn upon any street, roadway, or Lot in this Subdivision. No outside incinerators shall be kept or allowed on any Lot.

Section 42. Cost and Attorney's Fees. In the event the ASSOCIATIONS or Developer are successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, Assessment, or charge now or subsequently imposed by the provisions of these Covenants, they shall be entitled to recover from the party against whom the proceeding was brought, the attorney's fees, and related costs and expenses incurred in such proceeding.

Section 43. Annexation. Additional properties may be annexed by Developer and made subject to this Declaration. Said additional properties may be developed for condominiums,

villas, and single family residences. Said annexation may be perfected without consent of the Owners.

Section 44. Flood Protection Grade. The minimum flood protection grades referenced below shall establish the minimum sill or window opening to the structure. In order to minimize potential damages from surface water, flood protection grades (FPG) are established as set forth on the attached Plat as follows:

<u>LOT</u>	<u>(FPG)</u>	<u>LOT</u>	<u>(FPG)</u>	<u>LOT</u>	<u>(FPG)</u>
1	797.8	15	804.8	55	814.8
2	796.7	16	807.4	56	809.6
3	796.0	17	809.6	57	809.1
4	795.4	18	813.7	58	808.8
5	794.9	19	817.9	59	808.5
6	794.3	20	817.9	60	808.2
7	793.6	21	820.4	61	807.9
8	793.2	22	822.1	62	807.2
9	792.3	38	814.8	63	806.5
10	798.5	39	814.8	64	805.8
11	798.8	40	814.8	65	805.6
12	799.7	41	814.8	66	805.4
13	801.7	42	814.8	67	805.4
14	803.2	43	814.8		

Section 45. Sidewalks. A five feet (5'0") in width sidewalk within the street right-of-way is required in front of all Lots (except 8 and 9) within the Subdivision. No sidewalks shall be required in the landscape buffer area shown as Block D on the Plat, west of and adjacent to Cantwell Boulevard. Likewise, a sidewalk shall not be required to be extended to Aboite Center Road in Blocks B and C, but shall only be placed as shown on the Plat. Any installation of a sidewalk in a designated common area shall be the responsibility of the Developer. Installation of said sidewalks shall be the obligation of the Owner of any such Lot, exclusive of the Developer, and shall be completed in accordance with said plans and specifications and prior to the issuance of a Certificate of Occupancy for any such Lot. The cost of said installation shall be a lien against any such Lot enforceable by the Plan Commission. Should such Certificates of Occupancy be issued to the Developer, said individual or corporation shall be considered an Owner for the purposes of the enforcement of this covenant. Operation of motorized vehicles is not permitted on the sidewalks or pass-through easements in the Subdivision. This excludes wheelchairs or other devices employed by the handicapped.

Section 46. Lots Designated as a Natural Preserve Area. Parts of Lots numbered 1-20, 22 through 37 inclusive, and 54 through 63 inclusive, have been designated as Natural Preserve Easement Areas as shown on the Plat. So long as such parts of said Lots are designated as a Natural Preserve Area, no improvements shall be constructed or located within such designated areas. A Lot Owner may perform maintenance in the Natural Preserve Easement Areas, consisting only of the removal of naturally dead limbs, branches, trees or brush and pruning, but only with the prior written approval of the Master Association. Master Association may approve removal of live plants, but only if they are replaced with attractive plantings and/

or other barriers so as to preserve comparable rear yard privacy for all neighbors. A detailed written plan for removal and replacement must be submitted to the Master Association and approved in writing, but such replanting will only be approved if Master Association clearly considers it an improvement over existing natural plantings.

Section 47. Private Roadway. The streets within the Subdivision shall be privately owned and maintained. The Owner shall convey all title in and to the streets within the Subdivision, being more fully described in Exhibit A attached hereto, to Master Association promptly upon recording the Plat of the Subdivision. The streets shall be considered a private roadway subject to the rights and easements of this Article VI.

- (a) The Master Association shall maintain, repair, and improve the streets, in a safe and sound condition, including, but not limited to, the removal of snow and ice on the streets and the payment of all taxes and Assessments levied against said streets.
- (b) The Master Association shall assess the Lot Owners in the Subdivision in amounts sufficient to carry out the responsibilities set forth herein. The Board of Directors of the Master Association shall determine the amount of such Assessment. All Assessments under this Section shall be allocated equally and all Assessments shall be subject to the lien provisions of Article IV, Section 7.
- (c) In addition to the Assessments set forth in Subsection (b) above and Article IV, Section 9, annually assess the Lot Owners in the Subdivision the sum of \$75.00 per Lot, with such funds to be placed in a reserve fund and to be used for future repairs and capital improvements of the streets. The amount assessed hereunder may only be increased beyond the most recently published Consumer Price Index (CPI) rate in any specific year with a fifty-one percent (51%) vote of the Master Association and decisions requiring an expenditure, or series of related expenditures in the aggregate of \$20,000.00 or more shall receive approval from a majority of the Owners in the Subdivision. The funds in the reserve fund shall be placed in an interest bearing savings account, money market fund, certificate of deposit, or similar investment that is federally insured.
- (d) The Master Association shall be responsible for those other matters that are authorized by the Articles of Incorporation or Bylaws of the Master Association.
- (e) The maintenance and repair of the streets shall be the joint and several obligations of the Master Association and the Owners in the event the streets are not maintained or repaired pursuant to this Section or any applicable statute or ordinance.
- (f) The Master Association shall grant, dedicate, and convey to each Lot Owner in the Subdivision, their successors in interest, their invitees, and all public and quasi-public parties, including by way of illustration and not

by way of limitation, fire, law enforcement, emergency, school, public utility, mail, security, and delivery vehicles, a perpetual right and easement for purposes of ingress and egress in, over, and to the streets.

(g) The ASSOCIATIONS and each Owner in the Subdivision agree to jointly and severally indemnify and hold harmless Allen County, Indiana, the Allen County Board of Commissioners and the Allen County Plan Commission against any and all loss, damage, or liability arising from claims or suits for personal injury or property damage including any design, construction, use, or maintenance as such Roadway.

(h) The Allen County Board of Commissioners shall never be obligated to accept a public dedication, deed, or any other conveyance of the streets.

(i) The Allen County Highway Department shall never be obligated to maintain or repair the streets, or accept them into the Allen County Highway Maintenance Program.

(j) An asphalt or concrete paved driveway will be installed twelve foot (12') wide from Briarcliffe Pointe cul-de-sac to the west property line of the Developer. Said driveway will be the property of the Master Association and the Master Association will be responsible for its maintenance and repair, along with the maintenance and repair of all the other private streets within the Subdivision. This driveway will also serve as a walkway for all residents and their guests to access the park in Block E. This driveway may be utilized by Lots #7, 8, 9 and 10.

Section 48. Vehicles and Parking. The following restrictions apply irrespective of whether the Properties in question lie within areas owned by or dedicated to a governmental entity:

(a) Prohibited Vehicles or Items. The following vehicles or items are prohibited from the Subdivision and shall not be entitled to park anywhere within the Subdivision. The prohibited vehicles and items, subject to Subsection (b) below, are as follows: trucks, including pickup trucks, vans, recreation vehicles, mobile homes, motor homes, campers, buses, all terrain vehicles (ATV), off-road vehicles, commercial vehicles, limousines, mopeds, dirt bikes, motorcycles, and other such motor vehicles, and boats and trailers.

(b) Except to (a) above. The following vehicles shall not be subject to the parking restrictions contained in Subsection (a) above, and shall be entitled to park within the designated areas for parking in the Subdivision, subject to the restrictions and provisions contained in Subsection (c) through (j) below:

1. All vehicles mentioned in Subsection (a) next above if parked/ stored in the garage of the unit with the garage door closed. Also, a moving van shall be permitted to park outside of the garage, but only for the purpose of loading and unloading and

at no time shall same park as such during the hours 9:00 P.M. to 6:00 A.M.

2. Any pickup truck vehicle classified as having a one-half (1/2) ton carrying capacity or less.
3. Vehicles, regardless of classification, necessary for the maintenance, care, or protection of the Subdivision, during regular business hours, and only for the time period during which the maintenance, care, or protection is being provided.
4. Service and delivery vehicles, regardless of classification, during regular business hours and only for that period of time to render the service or delivery in question.
5. Vehicles for the handicapped bearing identification as such by an applicable governmental authority.
6. Certain vans are permitted. Subject to that provided above, a two (2) axle van as defined below which does not exceed the manufacturers standard length, height, and width of the particular van in a customized converted condition; used primarily for family and personal transportation and which is not a commercial vehicle as defined below; which contains at least two (2) rows of seating and windows on each side of the vehicle adjacent to at least each of the first two (2) rows of seating; and which is or would be registered in the State of Indiana as a passenger vehicle or equivalent shall be permitted to park on the Properties. The Master Association is permitted to make a presumption that the foregoing criteria are met, without the receipt of specific information or the vehicle registration unless upon visual inspection of the vehicle, it is obvious that any of the criteria are not met. The owner or custodian of the vehicle shall submit to the Master Association, reasonable information and documentation (including title and/or registration) concerning the vehicle upon request.
7. Campers, RV's & Motorhomes for a maximum of one 24-hour period per week to loan and unload, maximum of 15 such periods per year.

(c) Classifications and Definitions.

1. The most current edition of the N.A.D.A. Official Used Car Guide ("Guide") shall determine the classification of whether a vehicle is in fact a truck or van, or whether it is a passenger automobile. If the Guide does not contain reference to a particular vehicle, then the manufacturer's classification shall

control. If publication of the Guide shall be discontinued, an equivalent source shall be selected by the Board of Directors to be used to determine vehicle classifications hereunder. Except as otherwise provided as to certain vans under Subsection (b) 6 above, a State registration or title classification shall have no bearing on determination of the classifications under this Section.

2. A "Commercial Vehicle" shall mean any motor vehicle which has an outward appearance of being used in connection with business, such as the display of work equipment to view and/or is commercially lettered or contains a commercial or business logo.
 3. A "Truck" shall mean any motor vehicle classified as a truck in accordance with Subsection (c) 1 above.
 4. A "Van" shall mean any motor vehicle classified as a truck in accordance with Subsection (c) 1 above and which is recognized by the manufacturer to be a type of a van, and which has two (2) axles. Notwithstanding the foregoing to the contrary, a pickup truck shall not be considered to be a van by the addition of a camper top or similar covering.
- (d) All motor vehicles must be maintained so as to not create an eyesore in the community, be operable, and licensed unless stored within the Dwelling Unit continuously.
- (e) The Board of Directors may make parking restrictions by Rule and Regulation.
- (f) Except where safety dictates otherwise, horns shall not be used or blown while a vehicle is parked, standing in or driving through parking areas and/or streets. Racing engines and loud exhausts (as defined by the Board of Directors) are explicitly prohibited. No vehicle shall be parked while running and left unattended.
- (g) The following restrictions also apply:
1. No repair (including changing of oil) of a vehicle shall be made within the Subdivision except for minor repairs necessary to permit removal of a vehicle, unless they are made in the garage of the Unit with the garage door closed. However, washing or waxing of a vehicle is permitted outside the garage.
 2. No unregistered motor vehicle shall be driven or operated on any of the Properties at any time for any reason.

3. All personal vehicles which can be appropriately parked within a standard size parking stall may be parked on the Properties. No vehicles of any nature shall be parked on any portion of the Subdivision or a Dwelling Unit except on the surfaced parking area thereof. No parking will be permitted on sidewalks at any time or on the streets between 2:00 A.M and 6:00 A.M.

- (h) Remedy of Towing. If upon the Master Association's provision of notice an offending vehicle owner does not remove a prohibited or improperly parked vehicle from the Subdivision, the Master Association shall have the option and right to have the vehicle towed away at the vehicle owner's expense. By this provision, each Owner and vehicle owner provides the Master Association with the necessary consent to effect the tow. In the event the vehicle owner fails to pay such costs upon demand, the Master Association shall have the right to levy a charge for the costs against the Dwelling Unit and Owner in question, that is, the Owner as the owner of the vehicle or for the Owner's family, lessees, guests, employees, visitors, etc. as owner(s) of the vehicle (as such, the Dwelling Unit Owner is liable for the vehicle violations of the Owner's family, lessees, guests, visitors, etc.); thereupon the charge shall be collected as is provided for in this Declaration.
- (i) Alternative/Concurrent Remedies. Whether or not the Master Association exercises its right to have the vehicle so towed, the Master Association shall nonetheless have the right to seek compliance with this Section by injunctive and other relief through the courts; and/or any other remedy conferred upon the Master Association's right to tow shall in no way be a condition precedent to any other remedies available to the Master Association incident to the enforcement of this Subsection (i).

Section 49. Chimneys. All exterior wood-burning fireplace chimneys are to be of masonry construction. All material and color choices must be approved by the Architectural Control Committee, as set forth in Article III of these Restrictions. Metal flues which are 8" or smaller are allowed for non wood-burning gas fireplaces, but must be on the rear roof and are subject to approval by the Architectural Control Committee. Flues slightly larger than 8" or flues on side roofs may be allowed if they are well hidden, but must be carefully reviewed and approved by the Architectural Control Committee. Direct vents through the wall are allowed for gas burning fireplaces except in the case of front facing or side walls; all such metal flues must be screened sufficiently by landscaping so as not to be visible from the street or other lots.

Section 50. Garbage Removal. Garbage can only be placed at the curb for collection in containers approved by the Master Association (normally large bins supplied by the waste removal contractor) and only on the day of collection, or after 7:00 P.M. on the evening prior to collection. Garbage removal will be contracted by and paid for by the Master Association. If increasing costs dictate, the Master Association maintains the right to increase the Annual Assessment as stated in Article IV, Section 7 of these Regulations. The Covenants set forth in Article IV, Section 15 will apply regarding collection of fees assessed to Owners for garbage removal.

Section 51. Insurance. The ASSOCIATIONS have no responsibility to purchase or maintain any fire or hazard insurance with respect to the Dwelling Units or other improvements upon Lots; the Owners thereof shall be solely responsible for coverage of their property.

(a) The Master Association shall maintain comprehensive general liability insurance coverage for all the Common Areas. The coverage shall be at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas, and legal liability arising from lawsuits related to employment contracts of the Master Association. Such policies must include a provision that said policy can not be altered, canceled, or modified without ten (10) days prior written notice to the Master Association.

(b) The Master Association shall maintain a blanket fidelity bond for all officers, directors, trustees, and employees of the Master Association, and all other persons handling or responsible for funds of, or funds administered by, the Association. The amount of the fidelity bond shall be based upon best business practices and shall not be less than the estimated maximum of funds, including reserve funds, in custody of the Master Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than an amount equal to three months aggregate Assessments on all Units, plus reserve funds. The fidelity bonds required herein must meet the following requirements:

1. Fidelity bonds shall name the Master Association as an obligee.
2. The bonds shall contain waivers by the insurers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee" or similar terms of expressions.
3. The premiums on all bonds required herein for the Master Association (except for premiums on fidelity bonds maintained by a management agent, or its officers, employees, and agents) shall be paid by the Master Association as a common expense.
4. The bonds shall provide they may not be altered, canceled, or modified without 10 days written notice without 10 days prior written notice to the Master Association.

- (c) All insurance purchased pursuant to this Section 51 shall be purchased by the Master Association for the benefit of the Master Association, the Owners and their respective mortgagees, as their interest may appear, and shall provide for the issuance of certificates of insurance and mortgagee endorsements to Owners and any or all of the holders of institutional first mortgages. The policies shall provide that the insurer waives its rights of subrogation as to any claims against Owners and the Master Association, their respective servants, agents, and guests. Each Owner and the Association hereby agree to waive any claim against each other and against other Owners for any loss or damage for which insurance hereunder is carried where the insurer has waived its rights of subrogation as aforesaid.
- (d) The Master Association shall pay the cost of obtaining all insurance hereunder, excluding only the insurance as may be purchased by individual Owners and any other fees or expenses occurred which may be necessary or incidental to carry out the provisions hereof.
- (e) Each Owner may obtain insurance, at his own expense, affording coverage upon his own personal property and for his own liability and living expenses as he deems advisable. All such insurance shall contain the same waiver of subrogation that is referred to herein and shall waive any right of contribution.
- (f) The Master Association is irrevocably appointed agent for each Owner, for each Owner of a mortgage upon a Lot, and for each Owner of any other interest in a Lot or the Common Areas to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.
- (g) In all instances here under, immediately after a casualty causing damage to the property for which the Master Association has the responsibility of maintenance and repair, the Association shall obtain a reliable, detailed estimate of the cost to place the damaged property in a condition as good as that before the casualty. Such cost may include professional fees and premiums for such bonds as the Board of Directors may desire or those required by Institutional Mortgagees involved.

Section 52. Unlawful Uses. No improper, offensive, or unlawful use shall be made of any Lot and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be strictly observed.

Section 53. Docks and Pond Decks. All docks, decks, and other outdoor recreation areas adjacent to a pond or waterway must be designed and built of vinyl decking material or its equivalent, including, but not limited to, all posts, joists, beams, railings, built-in seating and/or storage, and walkways. All docks must be maintained in like-new condition, excepting normal wear and tear. All designs must be submitted to and receive approval from the Architectural Control Committee per Article III of these Restrictions.

Section 54. Watercraft. Lot Owners whose property is adjacent to a Common Area pond may construct and utilize an attractive, well-maintained dock or deck, as set forth in Article VI, Section 53 above and may own and operate up to three (3) watercrafts, either non-motorized or motorized, per the following specifications:

- (a) Said watercraft shall not utilize or operate any motor rated above nine and nine-tenths (9.9) horsepower as determined by the manufacturer of such equipment.
- (b) Only four (4) stroke gasoline or electric trolling motors are allowed and must be as quiet as or quieter than a year 2003, 9.9 horsepower four-stroke Honda outboard.
- (c) Prior to use, the Owner shall submit a request and receive written approval from the Board of Directors of the Master Association to store and operate a watercraft on any pond or waterway within the Subdivision.
- (d) Any watercraft and the lines used to secure said watercraft when docked must be well-maintained and in like-new appearance.
- (e) The Board of Directors of the Master Association reserves the right to disallow any watercraft, regardless of whether or not it meets the aforementioned criteria, if it becomes a nuisance (as stated in Article VI, Section 11 of these Restrictions) or an eyesore to the Subdivision. Upon receipt of notice from the Master Association, the Owner in question must remove the offending watercraft within three (3) days. If the watercraft is not removed within the allotted time frame, the Board of Directors will have the watercraft removed per Article VI, Section 47 (h) and (i).
- (f) A watercraft that complies with these aforementioned stipulations shall be allowed to operate within the Subdivision from 9:00 A.M to 9:00 P.M.

Section 55. Transformers and Utility Boxes. Any electrical transformer or other type of utility box located on an Owner's Lot must be screened from the street or neighboring Dwelling Unit with landscaping approved by the Architectural Control Committee, per Article III of these Restrictions.

Section 56. Entry Gate & Gatehouse. A gatehouse will be provided at the entrance to the subdivision. While the gatehouse interior will not be finished, it will be completed so as to allow for it to easily be finished and utilized as a gatehouse if so desired by the Board of Directors in the future. The gatehouse may also house pumps and irrigation equipment if wells are used for irrigation. Any gate that may be installed at the entrance to the subdivision will not be closed unless the operating equipment has first been approved by the Plan Commission, and subject to any applicable requirements of the Allen County Zoning Ordinance.

Section 57. Lots Designated with Pedestrian Easements. Parts of Lots #37 and #38 have been designated as pedestrian easements as shown on the plat. So long as such parts of said

lots are designated as pedestrian easements, no improvements shall be constructed or located within such designated areas other than the 5' sidewalk provided by the Developer. A lot owner may perform maintenance in the pedestrian easement area consisting only of pruning or the removal of naturally dead limbs, branches, trees or brush, but only with the prior written approval of the Master Association. The sidewalk is to be used by residents and their guests only and it will be 100% maintained by the Master Association.

Section 58. Lots Designated as a Maintenance Easement. Part of Lots #38, 39, 40, 41, 42, 43 and 54 have been designated as maintenance easement areas as shown on the plat. So long as such parts of said lots are designated as a maintenance easement area, no improvements shall be constructed or located within such designated areas other than decks or docks (see Article VI, Section 53).

This maintenance easement will be used from time to time by the Association in conjunction with maintaining a healthy pond, including but not limited to lawn mowing. No landscaping should be placed inside this maintenance area as it could occasionally be damaged. If a lot owner would like to place landscaping in this maintenance easement they can, provided they leave a path for lawn mower access to the pond and prior written approval is given by the Master Association.

Section 59. Lots Designated as a Legal Drainage Easement. Part of Lots #9 and 55-63 have been designated as legal drainage easements. This legal drainage easement is due to a state law requiring that there be 75' of area for creek way maintenance. It is unlikely that this easement will ever need to be utilized on the lot owner's lot; however, if landscaping is placed in this area and maintenance is required, the landscaping may be damaged and would need to be repaired at the lot owner's expense. No structures may be built in this 75 foot easement area with the exception of Lots #62 & 63 in which structure can be built in this easement. A lot owner may perform maintenance in the legal drainage easement consisting of pruning or the removal of naturally dead limbs, trees or brush. If desired, clearing can also occur in the legal drainage easement with written approval from the Master Association.

Section 60. Vehicular Access. Vehicular access to Block A and to the east bank of Squaw Creek will be provided through the 25' surface drainage and utility easement between Lots #39 & 40 and/or through the pedestrian easement between Lots #37/38 and behind Lot #38.

Section 61. Builder Restriction. Masterpiece Homes, Inc. will be the only builder to build homes in The Cliffs. The only exception to this is if Masterpiece Homes, Inc. is no longer a viable business entity, then other builders, upon approval from the Architectural Control Committee may build homes in The Cliffs.

IN WITNESS WHEREOF, MASTERPIECE HOMES, INC., a Corporation organized and existing under laws of the State of Indiana, Owner of the real estate described in said Plat, has hereunto set its hand and seal, by its duly authorized officer, this _____ day of _____, 2003.

MASTERPIECE HOMES, INC.

By: _____
Terence L. Ternet, President

STATE OF INDIANA, COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Terence L. Ternet, known by me to be the duly authorized and acting CEO of Masterpiece Homes, Inc., an Indiana Corporation, and acknowledged the voluntary execution of the above and foregoing instrument on behalf of said Corporation for the purposes and uses therein set forth this _____ day of _____, 20____.

My Commission Expires:

Christine M. Smith, Notary Public

A Resident of Allen County

Prepared by: Terence L. Ternet, Masterpiece Homes, Inc.
My Doc/Word/Current/The Cliffs/Cov & Restr./FINAL